



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/549,922

11/07/2006

Liam Cole Wright

A-9720

7958

7590

04/25/2008

Martin P Hoffman
Hoffman Wasson & Gitler
2461 South Clark Street
Suite 522 Crystal Center 2
Arlington, VA 22202

EXAMINER

NEWAY, BLAINE GIRMA

ART UNIT

PAPER NUMBER

4133

MAIL DATE

DELIVERY MODE

04/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,922	Applicant(s) WRIGHT, LIAM COLE	
	Examiner BLAINE G. NEWAY	Art Unit 4133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/20/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to application filed on November 7, 2006, in which claims 6-8 are presented for examination.

Status of Claims

Claims 6-8 are pending of which claim 6 are in independent form.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the compartment" in lines 2 and 4. It is unclear which compartment of the two compartments is being addressed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Curtis (US 3,394,870).

Regarding claim 6, Curtis discloses a smoker's pouch for carrying material capable of being smoked, having at least a first and a second compartment or pouch pockets 14 and 15, wherein at least one of the compartments is releasably sealable, by being able to be folded and unfolded, to retain material capable of being smoked or smoking accoutrements in the compartment (figures 3, 5, 6 and column 3, lines 42-46). Curtis further discloses the pouch being formed from multiple layers of material and the compartments being formed between adjacent layers of material (figures 6 and column 2, lines 49-52 and 60-68).

Regarding claim 7, as best understood by the Examiner in light of the 112 rejection, Curtis further discloses one of the compartments being sealed by a seal i.e. a fold having respective formations i.e. flaps associated with adjacent layers of material forming the pouch. Curtis also discloses the respective formations being engageable with each other by being folded, to releasably seal one of the compartments (figure 5-6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis (US 3,394,870) in view of Ausnit et al (US 4,832, 505) or Ausnit herein.

Curtis further discloses the seal having a first formation i.e. a first flap and a second formation i.e. a second flap (figure 3).

Curtis fails to disclose:

(1) the first formation having a female channel with resilient sidewalls having a flange on an upper portion of at least one side wall that extends at least partially toward the opposing sidewall and

(2) the second formation having a male member with an enlarged portion receivable between the opposed sidewalls of the channel and adapted to be retained therein until the application of a force large enough to release the male member therefrom.

Aunsit teaches a reclosable zipper 22 having a female channel 24 with resilient side walls having a flange on an upper portion of at least one side wall that extends at least partially toward the opposing side wall, and a male member 23 with an enlarged portion receivable between the opposed side walls of the female channel and adopted to be retained therein until the application of a force large enough to release the male member (figure 2 and column 2, lines 56-61).

It would have been obvious to one of ordinary skill in the art have substituted a zipper as, for example, taught by the Aunsit reference for the foldable flaps of the Curtis device wherein so doing would amount to mere substitution of one functionally

equivalent sealing means for another within the same art and the selection of any of these sealing means would work equally well in the Curtis device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Irving Silverman (US 2,674,289)

Gerard C. Grenier (US 2,062,001)

Albert Wax (US 2,510,918) all relate to tobacco pouches with sealing means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BLAINE G. NEWAY whose telephone number is (571)270-5275. The examiner can normally be reached on M-F 7:30 AM- 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Coby can be reached on 571 272-4017. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4133

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blaine G Neway/
Examiner, Art Unit 4133

4/23/2008

/Frantz Coby/
Supervisory Patent Examiner
Art Unit 4133